

MUNICIPAL BUILDING CONTROL INTERVENTION FILTER CRITERIA – RISK ASSESSMENT POLICY

Policy Reference No.	POL/181
File No.	HCC04/940-04
Strategic Objective	4.2 Create community pride through a well-designed and maintained City
Adopted by Council	November 2011
Re-Adopted	23 August 2021
Date for Review	August 2026
Responsible Officer	Manager Planning and Development
Department	Planning and Development

MUNICIPAL BUILDING CONTROL INTERVENTION FILTER CRITERIA – RISK ASSESSMENT POLICY

1. POLICY STATEMENT

- 1.1. Council adopts the Municipal Building Control Intervention Filter Criteria as Council’s policy for dealing with building control complaints, reports and emergencies where a private building surveyor has been appointed to undertake the functions of the ‘Relevant Building Surveyor’ as defined by the Building Act 1993 in relation to building work within Hume City.

2. PURPOSE

- 2.1. The Municipal Building Control Intervention Filter Criteria is designed to be used as a risk management tool for addressing complaints, reports and emergencies relating to building work and building sites for which a private building surveyor has been appointed to carry out functions as the relevant building surveyor in accordance the Building Act 1993. The criteria provides a uniform and consistent policy approach in dealing with these issues when they arise.

3. SCOPE

- 3.1. The Municipal Building Control Intervention Filter Criteria will be applied by the office of the Municipal Building Surveyor to all complaints, reports and emergencies involving building work and building sites or which a private building surveyor has been appointed as the relevant building surveyor under Part 6 of the Building Act 1993.

4. OBJECTIVE

- 4.1. The objective of this strategy is to enact relevant sections of the Building Act 1993, which seek to protect the safety and health of people in the built environment. This policy is linked to Council strategic objective 4.1, facilitate appropriate urban development while protecting and enhancing the City’s environment, natural heritage and rural spaces.

5. POLICY IMPLEMENTATION

- 5.1. The policy is to be administered by the Municipal Building Surveyor.
- 5.2. Whenever a complaint is received regarding building work for which a private building surveyor has been appointed to carry out the functions of the “Relevant Building Surveyor” the Municipal Building Control Intervention Filter Criteria will be applied to determine the level of action to be taken.

6. DEFINITIONS AND ABBREVIATIONS

- 6.1. “Act” means the Building Act 1993
- 6.2. “Regulations” means the Building Regulations 2018
- 6.3. “Municipal Building Surveyor” means the municipal building surveyor appointed by Council in accordance with section 213 of the Act
- 6.4. “Private Building Surveyor” means a private building surveyor appointed as relevant building surveyor in accordance with section 76 of the Act

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- 6.5. “Relevant Building Surveyor” means the building surveyor appointed to carry out the various functions and responsibilities associated with the issue of a building permit and the carrying out of inspections
- 6.6. “Victorian Building Authority” means the authority established under section 193 of the Act

7. RELATED DOCUMENTS

- 7.1. Hume City Council Municipal Building Control Intervention Filter Criteria
- 7.2. Building Act 1993
- 7.3. Building Regulations 2018

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1. RISK ANALYSIS

STEP 1 – Determine the possible consequences of the matter being complained of:

Table E1 Qualitative measures of consequence or impact

Level	Descriptor	Example detail description
1	Insignificant	No injuries, low financial loss, no detriment to health, no damage to property, siting.
2	Minor	Injury (self-treatable e.g. minor cuts or abrasions), medium financial loss, minimal detriment to health, minor damage to property.
3	Moderate	Injury (medical treatment required by other), high financial loss, moderate detriment to health, moderate damage to property.
4	Major	Serious non-permanent injury, major financial loss, major detriment to health, major damage to property.
5	Catastrophic	Permanent injury or death, huge financial loss, irreparable damage to property.

STEP 2 – Determine the likelihood of the event in Step 1 occurring

Table E2 Qualitative measures of likelihood

Level	Descriptor	Description
A	Almost certain	Is expected to occur in most circumstances
B	Likely	Will probably occur in most circumstances
C	Possible	Might occur some time
D	Unlikely	Could occur at some time
E	Rare	May occur only in exceptional circumstances

STEP 3 – Locate the issue on the risk matrix by comparing the likelihood to the consequence

Table E3 Qualitative risk analysis matrix – level of risk

Likelihood	Consequences				
	Insignificant 1	Minor 2	Moderate 3	Major 4	Catastrophic 5
A (almost certain)	M	H	E	E	E
B (likely)	M	H	H	E	E
C (moderate)	L	M	H	H	E
D (unlikely)	L	L	M	H	E
E (rare)	L	L	M	H	H

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STEP 4 – Identify action to be taken

Table E4 Legend for Risk Analysis Matrix and Treatment

E	Extreme risk: immediate action required	Refer to PBS without delay	Council/MBS takes immediate action to suitably reduce risk	<p>If there is evidence of conduct by any building practitioner such that a finding under section 179(1) of the Building Act 1993 could be made by the Victorian Building Authority the matter, with supporting evidence, will be referred for Inquiry.</p> <p>If there is a suspicion that any practitioner has engaged in conduct that may amount to illegal conduct or conduct as set out in section 179(1) of the Act the matter will be referred to the Victorian Building Authority for investigation.</p> <p>AND</p> <p>if it is necessary to do so for the proper administration of the Act refer the matter of RBS to the Victorian Building Authority for the exercise of its directive powers under s205M of the Building Act 1993.</p>
H	High risk, attention needed in reasonable time	Refer to PBS without delay	Council/MBS takes action if PBS is not taking action to suitably reduce the risk within reasonable time	
M	Moderate risk, treatment by PBS	Refer to PBS without delay	No other action by Council/MBS	
L	Low risk, manage by referral	Refer complainant to PBS without delay	No other action by Council/MBS	

STEP 5 – Take the action as required by the matrix

2. RELEVANT LEGISLATION REGARDING REFERRALS

2.1. BUILDING ACT 1993

S179. Inquiry into conduct

- (1) On an inquiry into the conduct of a registered building practitioner, the Victorian Building Authority may make any one or more of the decisions mentioned in sub-section (2) if it finds that the registered building practitioner--
- (a) is guilty of unprofessional conduct; or
 - (b) has failed to comply with this Act or the regulations; or
 - (c) has failed to comply with a determination of the Building Appeals Board or a direction of the Commission; or
 - (d) has been guilty of conduct in relation to his or her practice as a building practitioner which-
 - (i) is constituted by a pattern of conduct or by gross negligence or gross incompetence in a particular matter; and
 - (ii) shows that he or she is not a fit and proper person to practise as a building practitioner; or

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- (e) has employed or engaged to do, on his or her behalf, work of a kind that can only be done by a person registered under this Part in a particular category or class, a person who is not so registered; or
- (f) has obtained his or her registration under this Part or any required insurance by fraud or misrepresentation; or
 - (fa) has failed to comply with a reasonable direction of an insurer in respect of the completion or rectification of defective building work or any payment to be made to the insurer in respect of the completion or rectification of defective building work in accordance with required insurance or in accordance with a guarantee under the **House Contracts Guarantee Act 1987** or has failed to comply with a direction under section 44 of the **House Contracts Guarantee Act 1987**; or
 - (fb) has failed to carry out a recommendation contained in an inspector's report under section 48 of the Domestic Building Contracts Act 1995
- (g) has had his or her authority to practise as a building practitioner in a place outside Victoria cancelled or suspended otherwise than for failure to renew that authority; or
- (h) has failed to comply with an undertaking given to the Board under this Division.

2.2 BUILDING REGULATIONS 2018

Regulation 15.2 - Professional standards

A registered building practitioner must:

- (a) perform his or her work as a building practitioner in a competent manner and to a professional standard; and
- (b) immediately inform the client in writing if a conflict of interest arises or appears likely to arise between his or her interest as a building practitioner and that of his or her client; and
- (c) receive remuneration for his or her services as a building practitioner solely by the professional fee or other benefits specified in the contract of engagement or by the salary and other benefits payable by the building practitioner's employer.

NOTE: A finding pursuant to section 179(1) may include a finding of a failure to comply with Regulation 15.2.

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3. SUPPORTIVE LETTERS

3.1. Letter – Referral of complainant to PBS – L-‘Low Risk’

[COUNCIL LETTERHEAD]

Insert Date

[INSERT NAME OF COMPLAINANT]
[INSERT ADDRESS OF COMPLAINANT]

Dear [Insert name of Complainant],

Re: Building work at [insert address]

I refer to your concerns regarding building work at the above site.

Council records disclose that a private building surveyor has been appointed in relation to that building work.

The Building Act 1993 establishes a privatised system of ensuring compliance with the relevant legislation and codes. In circumstances such as this, where a private building surveyor has been appointed, it is that private building surveyor who has powers and responsibilities which enable and obligate them to deal with the matters raised by you. I recommend therefore that you raise your concerns directly with the private building surveyor relevant to this work. The private building surveyor’s details are as follows:

[Insert name and contact details of the relevant private building surveyor]

The Victorian Building Authority is the professional regulating body in respect of all building practitioners including private building surveyors. The Victorian Building Authority also has powers to oversee private building surveyors.

Any matters relating to the conduct, functions or practices of the private building surveyor or other building practitioners may also be referred to the Victorian Building Authority (of 733 Bourke Street Docklands 3008 – Ph 1300 815 127).

Yours faithfully

**MUNICIPAL BUILDING SURVEYOR
HUME CITY COUNCIL**

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3.2. Letter - Referral of complaint to PBS - M -‘Moderate Risk’

[COUNCIL LETTERHEAD]

Insert Date

[INSERT NAME OF PBS]
[INSERT ADDRESS OF PBS]

Dear [Insert name of PBS],

Re: Building work at [insert address]

Council records disclose that you have accepted an appointment to carry out a private building surveyor's functions under Part 6 of the *Building Act 1993* in respect of the building/building work at the above address.

Information has been received by this office regarding [insert details of complaint].

The above matter is considered to be within the scope of your appointment and you are the appropriate person to deal with this issue and any surrounding issues.

Having considered the *Municipal Building Control Intervention Filter Criteria Policy* that has been adopted by this Council, the Municipal Building Surveyor does not intend exercising powers under the Building Act which are equally available to you.

If, after a reasonable time however, it becomes evident that you have not taken appropriate action, the details of this matter may be referred to the Victorian Building Authority.

Yours faithfully

**MUNICIPAL BUILDING SURVEYOR
HUME CITY COUNCIL**

Copy: Owner

Copy: Complainant

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3.3. Letter to complainant advising of referral to PBS - M-‘Moderate Risk’

[COUNCIL LETTERHEAD]

Insert Date

[INSERT NAME OF COMPLAINANT]
[INSERT ADDRESS OF COMPLAINANT]

Dear [Insert name of Complainant],

Re: Building work at [insert address]

I refer to your concerns regarding building work at the above site.

Council records disclose that a private building surveyor has been appointed in relation to that building work.

The Building Act 1993 establishes a privatised system of ensuring compliance with the relevant legislation and codes. In circumstances such as this, where a private building surveyor has been appointed, it is that private building surveyor who has powers and responsibilities which enable and obligate them to deal with the matters raised by you.

I have therefore referred your concerns to the relevant private building surveyor for their action. A copy of that referral is enclosed.

The private building surveyor’s details are as follows:

[Insert name and contact details of the relevant private building surveyor]

You may also wish to contact the private building surveyor directly.

The Victorian Building Authority is the professional regulating body in respect of all building practitioners including private building surveyors. The Victorian Building Authority also has powers to oversee private building surveyors.

Any matters relating to the conduct, functions or practices of the private building surveyor or other building practitioners may also be referred to the Victorian Building Authority (of 733 Bourke Street Docklands 3008 - Ph 1300 815 127).

Yours faithfully

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3.4. Letter - Referral of complaint to PBS - H-‘High Risk’

[COUNCIL LETTERHEAD]

Insert Date

[INSERT NAME OF PBS]
[INSERT ADDRESS OF PBS]

Dear [Insert name of PBS],

Re: Building work at [insert address]

Council records disclose that you have accepted an appointment to carry out a private building surveyor's functions under Part 6 of the *Building Act 1993* in respect of the building/building work at the above address.

Information has been received by this office regarding [insert details of complaint].

The above matter is considered to be within the scope of your appointment and you are the appropriate person to deal with this issue and any surrounding issues.

Having considered the *Municipal Building Control Intervention Filter Criteria Policy* that has been adopted by this Council, the Municipal Building Surveyor does not at this time intend exercising powers under the Building Act which are equally available to you.

If, after a reasonable time however, it becomes evident that you have not taken appropriate action, the Municipal Building Surveyor may intervene and take any necessary action under the Building Act.

In the event it is necessary for the Municipal Building Surveyor to intervene, details of this matter may be referred to the Victorian Building Authority.

Yours faithfully

**MUNICIPAL BUILDING SURVEYOR
HUME CITY COUNCIL**

Copy: Owner

Copy: Complainant

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3.5. Letter to complainant advising of referral to PBS - H-‘High Risk’

[COUNCIL LETTERHEAD]

Insert Date

[INSERT NAME OF COMPLAINANT]
[INSERT ADDRESS OF COMPLAINANT]

Dear [Insert name of Complainant],

Re: Building work at [insert address]

I refer to your concerns regarding building work at the above site.

Council records disclose that a private building surveyor has been appointed in relation to that building work.

The Building Act 1993 establishes a privatised system of ensuring compliance with the relevant legislation and codes. In circumstances such as this, where a private building surveyor has been appointed, it is that private building surveyor who has powers and responsibilities which enable and obligate them to deal with the matters raised by you.

I have therefore referred your concerns to the relevant private building surveyor for their action. A copy of that referral is enclosed.

The private building surveyor’s details are as follows:

[Insert name and contact details of the relevant private building surveyor]

You may also wish to contact the private building surveyor directly.

The Victorian Building Authority is the professional regulating body in respect of all building practitioners including private building surveyors. The Victorian Building Authority also has powers to oversee private building surveyors.

Any matters relating to the conduct, functions or practices of the private building surveyor or other building practitioners may also be referred to the Victorian Building Authority (of 733 Bourke Street Docklands 3008 - Ph 1300 815 127).

In the event that the private building surveyor has not taken action in regard to your concerns within [insert time period] please advise this office accordingly.

Yours faithfully

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3.6. Letter to PBS - E-‘Extreme Risk’

[COUNCIL LETTERHEAD]

Insert Date

[INSERT NAME OF PBS]
[INSERT ADDRESS OF PBS]

Dear [Insert name of PBS],

Re: Building work at [insert address]

Council records disclose that you have accepted an appointment to carry out a private building surveyor's functions under Part 6 of the *Building Act 1993* in respect of the building/building work at the above address.

Information has been received by this office regarding [insert details of complaint].

I have reviewed the circumstances of this matter and am of the opinion that there is an imminent danger to life or property and as such, having considered the *Municipal Building Control Intervention Filter Criteria Policy*, as adopted by this Council, I have determined that it is necessary that I make an Emergency Order pursuant to section 102 of the *Building Act 1993*.

A copy is enclosed for your information.

The Emergency Order does not take away from your duties and powers with respect to the building work - however, if you are contemplating further enforcement in regards to these same issues, I recommend that you consult with this office and possibly the Victorian Building Authority before doing so.

Yours faithfully,

**MUNICIPAL BUILDING SURVEYOR
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Copy: Owner

Copy: Complainant

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3.7. Letter to complainant advising of Emergency Order and PBS - E-‘Extreme Risk’

[COUNCIL LETTERHEAD]

Insert Date

[INSERT NAME OF COMPLAINANT]
[INSERT ADDRESS OF COMPLAINANT]

Dear [Insert name of Complainant],

Re: Building work at [insert address]

I refer to your concerns regarding building work at the above site.

Council records disclose that a private building surveyor has been appointed in relation to that building work.

The Building Act 1993 establishes a privatised system of ensuring compliance with the relevant legislation and codes. In circumstances where a private building surveyor has been appointed, it is that private building surveyor who has responsibility to deal with matters pertaining to the building work being undertaken at the site.

In the present circumstances however, I consider that there is a danger to life or property and as such, having also considered the *Municipal Building Control Intervention Filter Criteria Policy*, as adopted by this Council, I have determined that it is necessary that I make an Emergency Order pursuant to section 102 of the *Building Act 1993*.

I have forwarded a copy of that emergency order to the private building surveyor.

The private building surveyor’s details are as follows:

[Insert name and contact details of the relevant private building surveyor]

You may also wish to contact the private building surveyor directly.

The Victorian Building Authority is the professional regulating body in respect of all building practitioners including private building surveyors. The Victorian Building Authority also has powers to oversee private building surveyors.

Any matters relating to the conduct, functions or practices of the private building surveyor or other building practitioners may also be referred to the Victorian Building Authority (of 733 Bourke Street Docklands 3008 - Ph 1300 815 127).

Yours faithfully

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3.8. Letter to Victorian Building Authority

[COUNCIL LETTERHEAD]

Insert Date

CHIEF EXECUTIVE OFFICER
VICTORIAN BUILDING AUTHORITY
P O BOX 536
MELBOURNE VIC 3001

Dear Sir/Madam

Re: [Insert name of building practitioner] - Request for Inquiry

Matters have come to the attention of Council, which in the view of Council, warrant the holding of an inquiry into the conduct of [insert name of building practitioner] who is/ was a registered building practitioner.

I request, pursuant to section 179 of the *Building Act 1993*, that the Victorian Building Authority conduct said inquiry.

I enclose a chronology of events as they concern the building practitioner in addition to a summary of what I believe are the matters complained of and copies of relevant documents.

Please do not hesitate to contact Council staff if further information and evidence is required.

I look forward to advice of the Victorian Building Authority decision in this matter.

Yours faithfully

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3.9. Letter to the Victorian Building Authority requesting an investigation into the conduct of a building practitioner

[COUNCIL LETTERHEAD]

Insert Date

CHIEF EXECUTIVE OFFICER
VICTORIAN BUILDING AUTHORITY
P O BOX 536
MELBOURNE VIC 3001

Dear Sir/Madam

Re: [Insert name of building practitioner/s]

A matter has come to the attention of Council which indicates that the conduct of the above practitioner/s warrant/s investigation by you.

The circumstances of this matter are set out in the enclosed chronology of events and summary of Council's concerns.

I request that you investigate the above practitioners and take the appropriate enforcement action.

Please advise me in due course of the results of your investigation.

Yours faithfully,

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3.10. Letter to the Building Commission requesting direction to PBS under s198

[COUNCIL LETTERHEAD]

Insert Date

CHIEF EXECUTIVE OFFICE
VICTORIAN BUILDING AUTHORITY
P O BOX 536
MELBOURNE VIC 3001

Dear Sir/Madam

**Re: [Insert name of PBS]
Building Surveyor Functions**

A matter has come to the attention of Council which indicates that the functions of a private building surveyor under the *Building Act 1993* or *Building Regulations 2018* have not been carried out in an appropriate manner.

The circumstances of this matter are set out in the enclosed chronology of events and summary of Council's concerns.

This matter is currently a serious cause of concern.

A prompt direction to the private building surveyor by the Victorian Building Authority under section 205M of the Building Act may compel the private building surveyor involved to deal with the issue in an appropriate and timely manner. This would avoid or contain any unnecessary Council involvement and therefore enable proper administration of the private building surveyor's function.

It is therefore requested that the Victorian Building Authority review this matter and take appropriate action as a matter of urgency.

Please do not hesitate to contact Council staff if further information is required.

Yours faithfully,

**MUNICIPAL BUILDING SURVEYOR
HUME CITY COUNCIL**

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